

7.4 MONASH MEDICAL CENTRE – PROPOSED ROAD DISCONTINUANCE

Responsible Committee: Section 223 Committee of Council

RECOMMENDATION:

That Council:

- 1) *Receives this report from the Committee established by Council in respect of a proposed road discontinuance of the 347m² portion of Council road located between Clayton Road and Mary Street/Wright Street, Clayton being part of the land contained in certificate of title volume 11551 folio 791 and part of Road R1 on Plan of Subdivision LP7039 (Road); and:
 - a) *notes that no submissions were received in respect of the proposed discontinuance of the Road; and*
 - b) *accepts the Committee's recommendation that Council progresses with the discontinuance of the Road and transfer to Monash Health.**
- 2) *Discontinues the Road and sells it to Monash Health in exchange for the transfer of the 298m² parcel of land owned by Monash Health which will become a new road vested in Council.*
- 3) *Directs that a Notice of Road Discontinuance be published in the Victoria Government Gazette pursuant to the provisions of clause 3(a) of Schedule 10 of the Local Government Act 1989 noting Council's decision to discontinue and sell the Road to Monash Health.*
- 4) *Authorises the Chief Executive Officer to arrange for the preparation and execution of all documents required in connection with, and to give effect to, the discontinuance of the Road and the sale of the Road to Monash Health in exchange for the transfer of the 298m² parcel of land owned by Monash Health which will become a new road vested in Council.*

INTRODUCTION

This report proposes that Council receive and accept the recommendation of the S.223 Committee of Council appointed in this matter to proceed with the road discontinuance and transfer to Monash Health of a 347m² portion of Council road located between Clayton Road and Mary Street/Wright Street, Clayton being part of the land contained in certificate of title volume 11551 folio 791 and part of Road R1 on plan of subdivision LP7039 (Road). The land from the Road will be in exchange for a 298m² area of land of owned by Monash Health to be created as Road on a plan of subdivision (New Road) and vested in Council as part of Monash Health's "Monash Medical Centre Emergency Department Expansion and Traffic Improvement Project".

BACKGROUND

At the 29 October 2019 Council meeting, Council resolved:

“That Council:

- 1. Acting under section 17(4) of the Road Management Act 2004 (Vic), resolves that the road reserve shown hatched in Attachment 2 to this report, with an area of approximately 347m², being part of the land contained in certificate of title volume 11551 folio 791 (‘Road’) be removed from Council’s Register of Public Roads on the basis that the Road is no longer reasonably required for general public use for the reasons set out in the report;*
- 2. Pursuant to Clause 3 of Schedule 10 and section 189(4) of the Local Government Act 1989 (‘the Act’) resolves to commence the statutory procedures to consider discontinuing the Road and transferring the land from the discontinued Road to Monash Health to facilitate the Monash Medical Centre Emergency Department Expansion and Traffic Improvement Project (‘the Proposal’);*
- 3. Pursuant to Sections 207A and 223 of the Act, directs that public notice of the proposed discontinuance and transfer of the discontinued Road, be given in the local newspaper and on Council’s website;*
- 4. Authorises Council’s Chief Executive Officer or her delegate to undertake the administrative procedures necessary to enable Council to carry out its functions under section 223 of the Act in relation to this matter (‘Appointed Officer’);*
- 5. Appoints a Committee of Council, comprising Oakleigh Ward Councillors, to consider any submissions received under section 223 of the Act at the Civic Centre at a time and date to be fixed.*
- 6. Directs that following any hearing of submissions by the Committee of Council, or if no submissions are received by Council’s Appointed Officer, a report is to be received by Council to consider whether to proceed with the proposed road discontinuance and transfer of the discontinued Road referred to at points (2) and (3) above.*
- 7. Notes that should the road discontinuance proceed as referred to in recommendation 6 above, that Monash Health intend to enter into an agreement with Council to facilitate the creation of the new road for public access as part of their plan of subdivision process.”*

DISCUSSION

Public Notice

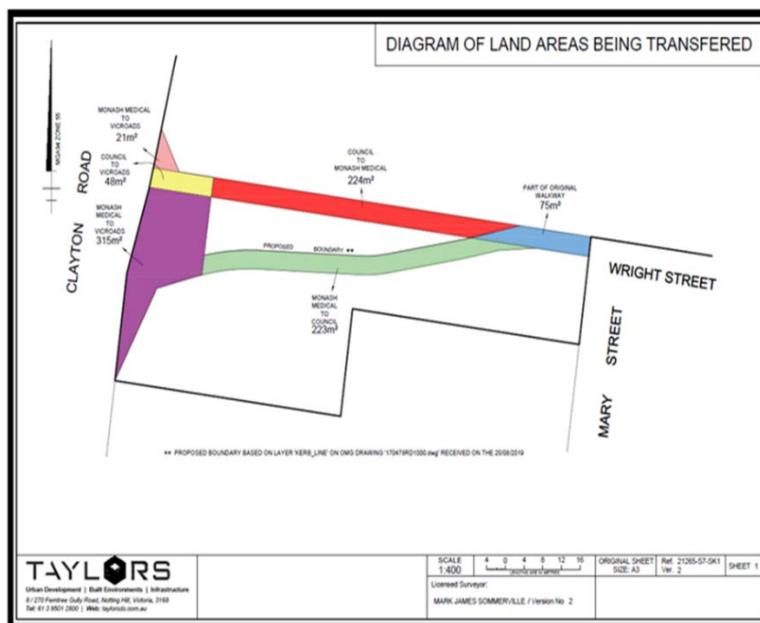
Council published a Notice of Proposed Discontinuance and Sale in the Monash Leader and on Council’s website commencing 12 November 2019 and concluding on 12 December 2019 inviting written submissions regarding the proposal to discontinue the Road and transfer of the land to Monash Health. No written submissions were received.

The S.223 committee met on 11 February 2020 to consider the outcome of the public notification process.

Councillors Josh Fergeus and Theo Zographos together with the Mayor made up the S.223 Committee appointed by Council. Councillor Josh Fergeus was an apology. Councillor Theo Zographos and Mayor Stuart James were in attendance. The outcome of the meeting was that the S.223 Committee agreed to recommend to Council that it proceed with the road discontinuance and transfer the land to Monash Health.

The Road

The Road is constructed and used as a publicly accessible footpath and nature strip which provide pedestrian access between Wright Street and Clayton Road, Clayton. It is shown coloured yellow, red and blue on the plan below. Public access will continue to be provided via the New Road to be transferred to Council from Monash Health as part of the land transaction agreement. The New Road is coloured purple green and blue on the plan below of which Council will become the owner of the areas coloured green and blue only. The locality plan in Attachment 2 also shows these areas overlaid on an aerial image.



The Road Discontinuance Process

The road status can only be extinguished if the Road is formally discontinued under Clause 3 of Schedule 10 to the Local Government Act 1989 or pursuant to the Road Management Act 2004 procedures.

This report to Council is the next step in the road discontinuance and sale process requiring Council to resolve to proceed to discontinue the Road and sell the land from the Road to Monash Health.

Publication of a Notice of Road Discontinuance in the Victoria Government Gazette will then follow and the road status will be removed and the land vested in Council enabling Council to engage in without prejudice discussions with Monash Health regarding the land transaction to transfer the Land to Monash Health in exchange for the area of Monash's Health's land to become the New Road.

The proposal from Monash Health provided in Attachment 1 outlines the sequence of events for the land transaction to enable their project to proceed. The sequence of events are being progressed with item 1 completed and all other items actively in progress.

CONSULTATION

The public consultation process which commenced on 12 November until 12 December 2019 has now been satisfactorily concluded.

The public notification indicated that if the Road is discontinued, Council proposed to either sell the land by private treaty to Monash Health in return for an equivalent new road connection or retain the land.

The S.223 Committee met on 11 February 2020 to further consider the outcome of the public notice process. As there were no submissions to the public notice, the Committee agreed to recommend to Council that the Road be discontinued and sold to Monash Health.

FINANCIAL IMPLICATIONS

Any transfer of land to Monash Health or any other party would be subject to a current market valuation at the time of sale in accordance with the *Local Government Best Practice Guideline for the Sale, Exchange & Transfer of Land* (June 2009).

Current market valuations of the Land and the area of land to become the New Road have been completed which indicate consistent values for a land exchange with a nil cash transaction.

Monash Health will reimburse Council's reasonable out-of-pocket expenses in this matter.

CONCLUSION

It is recommended that Council proceed with the discontinuance of the Road and transfer the Land to Monash Health in return for the area of land to become the New Road. This will demonstrate a collaborative approach between Council and Monash Health in helping to achieve the desired design outcomes for the new *Monash Medical Centre Emergency Department Expansion and Traffic Improvement Project*.

ATTACHMENT 1
Letter from Monash Health



Capital & Infrastructure
Monash Medical Centre
246 Clayton Road
Clayton Victoria 3168
Australia

Postal Address:
Locked Bag 29
Clayton South Vic 3169
Australia

Tel (03) 9594 4386
Fax (03) 9594 6030

26 September 2019

Dr Andi Diamond
Chief Executive Officer
City of Monash
PO Box 1
Glen Waverley Vic 3150

email: andid@monash.vic.gov.au

Dear Dr Andi Diamond,

RE: MONASH MEDICAL CENTRE EMERGENCY DEPARTMENT EXPANSION AND TRAFFIC IMPROVEMENT PROJECT – PROPOSED McCULLOCH STREET CREATION

Monash Health wish to advise Monash City Council of its intent to enter into an agreement with it for a proposed land transaction, Road Discontinuance/Deviation and Plan of Subdivision to enable the creation of a new internal private road, McCulloch Street, under the Monash Medical Centre Emergency Department Expansion and Traffic Improvement Project.

As previously discussed with Monash City Council officers, the Victorian Health and Human Services Building Authority (VHHSBA), under the guidance of the Department of Health and Human Services, has been funded to undertake capital improvement works to the Monash Medical Centre Emergency Department and associated traffic improvement works along Clayton Road. The project has been fully funded by the Victorian State Government and construction works, including the McCulloch Street works and its intersection with Clayton Road, will progress under a town planning exemption pursuant to Section 16 of the *Planning and Environmental Act 1987*.

One of the Project's main design directions stated by the VHHSBA is to improve the traffic flow in and around the existing Monash Medical Centre. A key component of the final design solution is to create a new internal road and intersection with Clayton Road. This internal road, McCulloch Street, holds the key to Monash Medical Centre's ability to separate the flow of vehicles entering the site and improve safety for all users of the internal road system. The McCulloch St intersection will accommodate hospital staff vehicles and delivery traffic entering and exiting the site, removing them from the existing Main Entry which is to be the focal point for public visitors only.

The proposed McCulloch St roadway currently resides over a portion of existing walkway land owned by Monash City Council (MCC), adjacent to land owned by Monash Health (MH).

Land Transaction: Road Discontinuance/Deviation and Plan of Subdivision:

MH and MCC have previously discussed a possible land transaction agreement in order to realise the creation of McCulloch St. At recent meetings held between MH and MCC on 07 August and 10 September 2019, it was proposed and agreed that the land transaction could proceed under a 'Road Discontinuance/Deviation' procedure in association with a 'Plan of Subdivision'. The attached sketch produced by the Project's Traffic Engineer, One Mile Grid, summarises the proposed parcels of land to be transacted under this agreement. (Refer document '170478CLP113B.pdf' Drawing No. CLP113, Revision B, "Monash Medical Centre Redevelopment McCulloch Street Land Swap Areas").

MH, through the Project, sought professional advice on the proposed processes required to undertake the creation of McCulloch Street. The steps involve a Road Discontinuance/Deviation process to be undertaken by Monash City Council to extinguish the existing road. Monash Health will be responsible to then recreate the new road (walkway) in its new location through a Plan of Subdivision process.

Monash Medical
Centre Clayton
246 Clayton Road
Clayton
Tel: 9594 6666

Moorabbin Hospital
Centre Road
East Benleigh
Tel: 9928 8111

Kingston Centre
Warrigal Road
Cheltenham
Tel: 9265 1000

Dandenong Hospital
David Street
Dandenong
Tel: 9554 1000

Casey Hospital
Kangan Drive
Berwick
Tel: 8768 1200

Community-based
services across
the South East

ABN 82 142 080 338



The following is the proposed sequence of events leading to the creation of McCulloch Street:

1. The Project's Land Surveyor will prepare a Road Discontinuance Plan and a Title Plan for use by Monash City Council (MCC) to formally discontinue the walkway;
2. Monash Health (MH) Project team secures a formal agreement between key stakeholders to have MCC undertake the road discontinuance of the walkway, prepare the transfer the ownership of the discontinued road to MH for the proposed re-subdivision. The consideration for the transfer will be the new road (walkway) to be vested to MCC. No financial consideration will be required, as the road (walkway) is effectively being 'deviated' to the new position. The areas involved are practically the same, less the land being vested to VicRoads.
3. MCC will commence the Road (walkway) Discontinuance process in line with its statutory requirements, which ultimately will create a title which can be transferred to MH. Under Section 191 of the *Local Government Act 1989*, a Council powers to transfer any land include the power to do so without consideration to any public body (MH);
4. The Project's Land Surveyor will prepare a preliminary Plan of Subdivision (to realign the boundaries required), to assist the team with discussions with the key stakeholders (MCC, VicRoads and MH). This plan may also be included in a formal agreement;
5. The Project's Land Surveyor will submit an application to MCC, on behalf of the MH, for the planning permit and Plan of Subdivision for approval of the subdivision of the former walkway, 1 Mary Street and 248-250 Clayton Road to create the new walkway (road) to be vested to MCC; the entry road, southern and northern splays to be vested to VicRoads;
6. MCC will process the application and undertake any referrals to relevant authorities and certify the Plan of Subdivision;
7. MCC will issue Statement of Compliance for the Plan of Subdivision upon construction completion of new walkway and entry civil works;
8. MH solicitors/lodging party to submit an application for registration of the subdivision at Land Use Victoria. These will need to be accompanied by the relevant transfer documents (such as the transfer of the discontinued road from Monash City Council to Monash Health); and
9. Upon registration of the subdivision, the new MCC road (walkway) and the VicRoad's road (entry and splay) will vest to those bodies respectively.

For MCC's information, the Project has been advised that the timing of gaining the planning permit and certification of the Plan of Subdivision will be four to six months from time of submission. The issuing of the Statement of Compliance is dependent upon the civil works for the new roadway and new entry being completed to MCC and the Authorities' satisfaction.

It is proposed the Project's Land Surveyor, Taylors, will undertake a title survey early in the project to update and determine the subject site boundaries along Clayton Road and Mary Street Avenue and to assist in the preparation of the Plan of Subdivision. A second site survey visit will be undertaken by Taylors upon completion of the walkway to confirm the built dimensions accord with those in the prepared plans of subdivision.

Taylors has drafted the following plans for MCC's reference:

- The draft Road Discontinuance Plan (Refer document '21265-RD-Road Discontinuance.pdf');
- The draft Plan of Subdivision (Refer document '21265-S(V1-DRAFTC).pdf'; and
- A 'For information' document with coloured areas indicating the sub-division boundaries overlaid on the proposed engineering concept plan. (Refer document '21265-S (V1-DRAFTC) LAND AREAS.pdf.)

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Centre Clayton
248 Clayton Road
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Tel: 9594 6666

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The Project notes that VicRoads has been kept informed throughout all phases of the Project's planning and finalisation of design and has issued the Project written confirmation of its approval of the McCulloch St/Clayton Road intersection's construction. Extensive correspondence between the Project and VicRoads has occurred and if required, separate copies of this correspondence will be sent through for MCC records.

The Subdivision and Road Discontinuance processes will run simultaneously and the Project proposes to cover all reasonable costs associated with the land transaction and manage the agreement between Monash Health, and Monash City Council and that required for vesting of the intersection land to VicRoads.

Fregon Hall:

As additional scope to this land exchange agreement Monash Health confirm its acceptance of the creation of the Carriageway Easement across its land in favour of Fregon Hall, for nominal consideration, in order to address an historical anomaly. This easement creation is highlighted on the attached documents 'Fregon Hall Aerial Carriageway Easement Creation.pdf' and 'Fregon Hall title and diagram (003) (002).pdf'. It is understood MCC will arrange for surveyors to prepare a 'Creation of Carriageway Easement Plan', separately to the above detailed land swap process.

Proposed Timing of the Agreement:

Monash Health note that on 19 August 2019, VHHSBA appointed Kane Constructions Pty Ltd as Main Contractor on the Project and construction works on the Emergency Department Expansion works commenced in September 2019. As such, MH request urgent consideration of this proposal by Monash City Council.

In summary, Monash Health propose to enter into the agreement as soon as possible with Monash City Council for the Road Discontinuance/Deviation and Plan of Subdivision and request confirmation by Monash City Council of its endorsement to proceed in due course as negotiated.

Please do not hesitate to contact me should you have any further queries in relation to this matter and we look forward to receiving MCC's endorsement of the agreement.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'D Ballantyne', with a horizontal line extending to the right.

David Ballantyne
Executive Director
Capital & Infrastructure

**ATTACHMENT 2
Locality Plan**

Not to scale – approximate only.

